

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM J. BECKERS
and RICHARD L. STUDER

Appeal No. 2002-1276
Application 09/405,971

ON BRIEF

Before ABRAMS, STAAB, and MCQUADE, Administrative Patent Judges.
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

William J. Beckers et al. appeal from the final rejection of claims 1 through 20, all of the claims pending in the application.

THE INVENTION

The invention relates to "a knife for cutting fibrous

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a blade having a non-cutting back edge, a smooth, curved cutting front edge opposite the back edge adapted to compress and cut the insulation batt simultaneously, the back edge and the front edge meeting at a forward end, a rearward end, a blade length between the forward end and the rearward end, a blade width between the back edge and the front edge, and a blade longitudinal axis extending between the forward end and the rearward end intermediate the blade width; and

a handle permanently and non-movably attached to the rearward end of the blade and extending rearwardly of the rearward end of the blade, the handle having a first end, a second end, a handle length between the first end and the second end, a back side, a front side, a handle width between the back side and the front side, and a handle longitudinal axis intermediate the handle width and substantially parallel to the back side, further comprising a blade-engaging portion adjacent the first end and a gripping portion adjacent the second end, the blade-engaging portion encompassing and supporting the blade along a substantial portion of the blade length, the gripping portion enclosing the fingers of the hand and preventing contact between the fingers and the blade and between the fingers and the insulation batt.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Alexander	1,850,090	Mar. 22, 1932
Cremonese	Des. 235,841	Jul. 15, 1975

THE REJECTION

Claims 1 through 20 stand rejected under 35 U.S.C. § 103(a)

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No. 14) for the respective positions of the appellants and the examiner with regard to the merits of this rejection.

DISCUSSION

Cremonese, the examiner's primary reference, discloses a knife having a blade and a handle, wherein the handle straddles the back (upper) edge of the blade adjacent its rearward end and bounds the upper periphery of a finger opening in the blade. This handle does not respond to the limitations in independent claims 1, 10 and 18 requiring the handle to comprise a gripping portion which encloses the fingers of the hand and prevents contact between the fingers and the blade and between the fingers and an insulation batt, the limitation in claim 1 requiring the handle to extend rearwardly of the rearward end of the blade, the limitation in claim 10 requiring the longitudinal axis of the handle to meet the longitudinal axis of the blade at an angle so as to allow the hand of the user to be above an insulation batt as the blade contacts the batt along a substantial portion of the blade, or the limitation in claim 18 requiring the gripping

blade. To overcome these deficiencies, the examiner turns to Alexander.

Alexander discloses a utility knife for "the cutting of cords; shaping of suitable material in the manner of a draw-knife, applying putty and other manifold purposes" (page 1, lines 85 through 88). The knife includes a triangular blade 10 having opposed angular cutting edges 11 and a rectangular back 12, and blade-supporting structure comprising a plate 18 connected to the back of the blade by two screws, an elongate transverse opening 21 and a cylindrical handle 20, these elements being arranged in their operative position as shown in Figure 2. As described by Alexander,

[w]hen the knife is not in use one of the screws may be removed and the other slackened to permit the blade 10 to be rotated on the slackened screw as a pivot, the blade swinging over the level surface of the plate 18, through an opening 23 into the handle space 24, as seen in Figure 4, in which position the cutting edges are protected from injury by accidental contact with other articles and at the same time damage to adjacent objects is prevented [page 1, lines 63 through 73].

In proposing to combine Cremonese and Alexander to reject

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Note that this merely changes the handle location so that the blade may be used for slicing more easily [answer, pages 2 and 3].

In the same vein, the examiner argues that "with knowledge of Cremonese and Alexander and when presented with the problem of cutting bat[t]s one would obviously conclude that [the] grip of Cremonese should be moved to the back of the blade as shown by Alexander" (answer, page 4).

Cremonese and Alexander, however, do not mention, address or otherwise contemplate the problem of cutting insulation batts. Although this problem may have been recognized in the prior art as discussed in the background section of the appellants' specification, the examiner has not properly cited and relied on such prior art knowledge in formulating the rejection.¹ Moreover, even if such prior art knowledge were properly applied in support of the rejection, the examiner's evidentiary showing would still lack any suggestion or motivation to use the knife disclosed by Cremonese to cut insulation batts, or to reposition or replace the Cremonese handle in view of Alexander for this or

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recited in independent claims 1, 10 and 18 stems solely from hindsight knowledge impermissibly derived from the appellants' disclosure.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 1, 10 and 18, and dependent claims 2 through 9, 11 through 17, 19 and 20, as being unpatentable over Cremonese in view of Alexander.

SUMMARY

The decision of the examiner to reject claims 1 through 20 is reversed.

REVERSED

NEAL E. ABRAMS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
)	
)	APPEALS AND
LAWRENCE J. STAAB)	
Administrative Patent Judge)	INTERFERENCES
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